

NO. 24394

IN THE SUPREME COURT OF THE STATE OF HAWAI'I

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GREGORY BARNETT, Plaintiff-Appellant

vs.

MEGUMI TADOKORO, aka Megumi Barnett and Megumi Tadokoro-Barnett,  
Masazumi Tadokoro and Masuko Tadokoro, Defendants-Appellees

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APPEAL FROM THE FAMILY COURT OF THE FIRST CIRCUIT  
(FC-M NO. 00-1-0005)

ORDER DISMISSING APPEAL

(By: Moon, C.J., Levinson, Nakayama, Ramil, and Acoba, JJ.)

Upon review of the record, it appears that the July 28, 2000 order dismissing the complaint and the amended complaint was the appealable final order in FC-M 00-1-0005 from which a notice of appeal had to be filed within thirty days after the order was entered. HRS §§ 571-54 and 641-1(a); HRAP 4(a)(1) and 26(a). The notice of appeal filed on July 6, 2001 is untimely. FC-M 00-1-0005 was a family court civil matter governed by the Hawai'i Family Court Rules (HFCR). HFCR Rule 58, unlike Hawai'i Rules of Civil Procedure Rule 58, does not contain a "separate document" provision and so the July 28, 2000 order was appealable without entry of a separate judgment thereon. Cf. Casumpang v. ILWU, Local 142, 91 Hawai'i 425, 984 P.2d 1251 (1999).

Appellant's mistaken belief that a separate judgment was required did not relieve him of the time requirement of HRAP 4(a)(1). See Bacon v. Karlin, 68 Haw. 648, 650, 727 P.2d 1127, 1128 (1986)

(The failure of an appellant to file a timely notice of appeal in

a civil matter is a jurisdictional defect that can neither be waived by the parties nor disregarded by the appellate court in the exercise of judicial discretion). The July 6, 2001 notice of appeal being untimely, we lack jurisdiction over this appeal. Therefore,

IT IS HEREBY ORDERED that this appeal is dismissed for lack of appellate jurisdiction.

DATED: Honolulu, Hawai'i October 10, 2001.